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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/082,958
Filing Date: February 26, 2002
Appellant(s): LODA, DAVID C.

Barry Kelmachter, Reg.No. 29999
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/29/2009 appealing from the Office action mailed 10/01/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Charles

US Patent 6449103

September 10, 2002

Pugliese et al. US Publication 20010044751 November 22, 2001

Thompson US Patent 7068301 June 27, 2006

Boykin US Patent 6831556 December 14, 2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,6-8,10-12,14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Charles (US Patent 6449103) in view of Pugliese et al. (US Publication 20010044751), hereinafter referred to as Pugliese further in view of Thompson (US Patent 7068301).

Charles substantially disclosed the features of the invention described in the claims below.

With respect to Claim 1 Charles disclosed (Charles - original) An integrated system comprising: (Charles - Figures 177-180, Column 9 Lines 30-50, Column 59 Lines 10-25) a portal (Charles - Figure 178, Item 178L); at least one wireless local area network in communication with a server (Charles - Figure 178-179, Items 179e) ; at least one mobile platform in wireless communication with said at least one wireless local area network; (Charles - Figure 179, Items 179t, 179r, Column 59 Lines 5-25, Column 60 Lines 1-15)

The Examiner interprets the portal to be a computer that is enabled to view visual data via a web site concurrently with a web-based community of users. (Applicant Specifications Page 6)

Charles disclosed a portal as embodied by a computer connected to the Internet for presenting visual data to the user(s). (Charles – Column 60 Lines 1-15) However Charles does not disclose certain features of the invention, such as using a server hosting a website, such that users are able to access visual data via a web page. While Charles disclosed of using control means for games and robotic devices, interactive input devices and goggles in conjunction with the remote visual device, Charles does not disclose of operating the visual device via a website. While Charles was concerned with the distribution and display of video data over the Internet, (Charles – Column 7 Lines 15-20) Charles would have been motivated to look for other disclosures regarding remote viewing and observing of subject matter (Charles – Column 7 Lines 15-20, Lines 33-36) via Internet, such as Pugliese.

Pugliese disclosed an online shopping portal that allows registered users and merchants to communicate via an interactive video communication system via a website. Pugliese disclosed of users being able to remotely operate the video camera in order to view products from the merchant store.

Pugliese disclosed a server communicating with said portal and a means for enabling two-way communications between said portal and said server. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

Pugliese disclosed (re. Claim 1) having at least one software tool for analyzing, organizing and sorting at least one form of data for access by at least one community of users. (Pugliese-Paragraph 139, Paragraph 153) each community having secured access to at least one form of data relevant to said community. (Pugliese-Paragraph 86, Paragraph 104, Paragraph 115)

Charles and Pugliese are analogous art because they present concepts and practices regarding electronic distribution, processing, and viewing of visual data via a remote visual device. At the time of the invention it would have been obvious to combine the teachings of Pugliese regarding website portals that host interactive video communications into the method and apparatus of Charles. The said combination

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would enable the method and apparatus of Pugliese to manage an Internet website for coordinating viewing of the visual data, and to allow users to remote operate the visual device by issuing commands via said website. The suggested motivation for doing so would have been, as Pugliese suggests (Pugliese - Paragraph 6), so that users at the remote site may be able to hold interactive sessions with and obtain input from knowledge experts at other remote sites.

However Charles-Pugliese did not disclose (re. Claim 1) wherein the visual data device is in communication with a PC tablet .

Thompson disclosed (re. Claim 1) wherein the visual data device is in communication with a PC tablet. (Thompson -Figure 2, Column 5 Lines 30-45,'maintenance apparatus')

Thompson also disclosed (re. Claim 1) having at least one software tool for analyzing, organizing and sorting at least one form of data for access by at least one community of users, each community having secured access to at least one form of data relevant to said community. (Thompson-Figure 1, 'user interface', Column 7 Lines 35-45,'multiple views')

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Charles, Pugliese and Thompson are analogous art because they present concepts and practices regarding electronic distribution, processing, and viewing of visual data via a remote visual device. At the time of the invention it would have been obvious to combine the teachings of Thompson into the method and apparatus of Charles-Pugliese. The motivation for said combination would have been to have the appropriate maintenance files readily available at the inspection site along with the visual device. (Thompson -Column 4 Lines 20-30)

Charles-Pugliese-Thompson disclosed Claim 2 - The integrated system of claim 1 wherein said portal may be accessed by at least one mobile device in communication with said portal. (Charles - Figure 180 Item 180a,Column 58 Lines 15-35)

Charles-Pugliese-Thompson disclosed Claim 3 - The integrated system of claim 1 wherein said at least one local area network is physically integrated with said server. (Charles - Figure 179c)

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Charles-Pugliese-Thompson disclosed Claim 4 - The integrated system of claim 1 wherein said at least one local area network is in wireless communication with said server. (Charles - Figure 179, Column 16 Lines 1-15)

Charles-Pugliese-Thompson disclosed Claim 6 - The integrated system of claim 1, further comprising a borescope and said borescope being in communication with a mobile device. (Charles - Figure 64, Figure 137, Figure 177i, Column 16 Lines 1-15, Column 45 Lines 55-60, Column 46 Lines 35-50, Column 47 Lines 20-30)

Charles-Pugliese-Thompson disclosed Claim 7 - The integrated system of claim 6, wherein said borescope communicates with said mobile device via a data feed wire. (Charles - Figure 64, Figure 180, Column 45 Lines 55-60, Column 46 Lines 35-50, Column 47 Lines 20-30)

Charles-Pugliese-Thompson disclosed Claim 8 - The integrated system of claim 7, wherein said mobile device comprises at least one USB port for receiving said data feed wire. (Charles - Figure 64, Figure 180, Column 45 Lines 55-60, Column 46 Lines 35-50, Column 47 Lines 20-30)

Charles-Pugliese-Thompson disclosed Claim 10 - The integrated system of claim 19, wherein said stereographic viewing system comprises a stereo image lens in communication with said at least one mobile device. (Charles - Figure 177-180, Column 30 Lines 10-15, Column 47 Lines 20-30, Column 54 Lines 25-50)

Charles-Pugliese-Thompson disclosed Claim 11 - The integrated system of claim 10, wherein said at least one mobile device comprises at least one USB port for receiving data from said stereo image lens. (Charles - Figure 177-180, Column 30 Lines 10-15, Column 47 Lines 20-30, Column 54 Lines 25-50)

Charles-Pugliese-Thompson disclosed Claim 12 - The integrated system of claim 1, wherein said server is addressable by a unique IP address and wherein said server hosts at least one web page. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166, Paragraph 268)

Charles-Pugliese-Thompson disclosed Claim 14 - A method for providing remote, interactive visual analysis of an apparatus, (Charles - Figures 177-180, Column 9 Lines 30-50, Column 59 Lines 10-25) comprising the steps of: providing a portal, said portal in communication with at least one electronic device (Charles - Figure 178, Item 178L); integrating said server into a wireless local area network; (Charles - Figure 178-179, Items 179e) connecting at least one mobile platform to said local area network; providing visual data from at least one visual device to said at least one mobile platform;

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and receiving said visual data at said at least one electronic device. (Charles - Figure 179, Items 179t, 179r, Column 59 Lines 5-25, Column 60 Lines 1-15, Column 30 Lines 10-15, Column 47 Lines 20-30, Column 54 Lines 25-50) ; providing a server two-way communication with said portal via the internet. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

Pugliese disclosed (re. Claim 14) having at least one software tool for analyzing, organizing and sorting at least one form of data for access by at least one community of users. (Pugliese-Paragraph 139, Paragraph 153) each community having secured access to at least one form of data relevant to said community. (Pugliese-Paragraph 86, Paragraph 104, Paragraph 115)

Thompson also disclosed (re. Claim 14) having at least one software tool for analyzing, organizing and sorting at least one form of data for access by at least one community of users, each community having secured access to at least one form of data relevant to said community. (Thompson-Figure 1, 'user interface', Column 7 Lines 35-45, 'multiple views')

Charles-Pugliese-Thompson disclosed Claim 14 - analyzing a turbine engine of the apparatus using said visual data. (Thompson -Figure 2, Column 5 Lines 30-45, 'maintenance apparatus')

Charles-Pugliese-Thompson disclosed Claim 15 - The method of claim 14 comprising the additional step of issuing control commands to said at least one visual device from said at least one electronic device. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

Charles-Pugliese-Thompson disclosed Claim 16 - The method of claim 15, wherein said control commands are issued response to receiving said visual data by said at least one electronic device. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

Charles-Pugliese-Thompson disclosed Claim 17 - The method of claim 16, further comprising altering an orientation of said visual device in accordance with said control commands. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

Charles-Pugliese-Thompson disclosed Claim 18 - The method of claim 14, wherein said receiving of said visual data is limited by a community affiliation of said one or more electronic devices. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

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Charles-Pugliese-Thompson disclosed Claim 19 - The integrated system of claim wherein said visual data device comprises a stereographic viewing system.

(Charles - Column 30 Lines 10-15, Column 54 Lines 25-50)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Charles (US Patent 6449103) in view of Pugliese et al. (US Publication 20010044751), hereinafter referred to as Pugliese further in view of Thompson (US Patent 7068301) further in view of Boykin (US Patent 6831556).

While Charles-Pugliese-Thompson substantially disclosed the claimed invention Charles-Pugliese-Thompson did disclose (re. Claim 13) wherein said server is located on said at least one mobile platform *with said at least one movable platform comprising one of the following: a boat, an airplane, a spacecraft, an automobile or a truck.*

Boykin disclosed (re. Claim 13) wherein said server is located on said at least one mobile platform *with said at least one movable platform comprising one of the following: a boat, an airplane, a spacecraft, an automobile or a truck.* (Boykin-Column 1 Lines 55-65)

Charles, Pugliese, Thompson and Boykin are analogous art because they present concepts and practices regarding electronic distribution, processing, and viewing of visual data via a remote visual device. At the time of the invention it would have been obvious to combine the teachings of Boykin into the method and apparatus of Charles-Pugliese-Thompson . The motivation for said combination would have been to enable an operator to control the video feed from the visual device. (Boykin1-Column 5 Lines 45-65)

(10) Response to Argument

The Applicant presents the following argument(s) *[in italics]*:

The Examiner contends that item 178L in Figure 178 of Charles is a portal; however, there is no way from merely viewing the figure to tell precisely what item 178L is. There is absolutely no writing in Charles which describes what item 178L is... There

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is nothing in Charles which describes computer 179e as being a server. Nor is there any disclosure in Charles of computer 179e being attached to at least one wireless local area network... The principal error here is that the Examiner is merely interpreting the figure in a way which supports a rejection; however, there is nothing written in Charles which confirms that the Examiner's interpretation is correct or fact. Thus, the Examiner's interpretation is nothing more than impermissible conjecture.

The Examiner respectfully disagrees with the Applicant.

Drawings and pictures can anticipate claims if they clearly show the structure which is claimed. However, the picture must show all the claimed structural features and how they are put together. When the reference is a utility patent, it does not matter that the feature shown is unintended or unexplained in the specification. The drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art.

Charles Column 7 Lines 15-30 disclosed several applications including surveillance and inspection as one of the many applications for the captured images. Charles Column 15 Lines 45-50 disclosed wherein the images are used in multiple portal virtual reality projection embodiments and Charles Column 16 Lines 5-15 disclosed wherein the system includes interactive input devices.

The e1 notes that in the rejection Charles is not relied upon to disclose a server. However the Examiner notes that Charles and Pugliese have overlapping disclosures regarding portals and servers.

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Pugliese disclosed a server communicating with said portal and a means for enabling two-way communications between said portal and said server. (Pugliese – Paragraph 255)

The Examiner notes that Charles explicitly disclosed using the Internet as a distribution network. The Examiner maintains that Charles would have been required to use a server in order to implement said distribution over the Internet. Thus Charles disclosed a server communicating with the portal.

Furthermore also disclosed using intranets as a distribution network, said intranets being equivalent to a local area network.

The Applicant presents the following argument(s) [in italics]:

... Charles has nothing to do with what is being claimed and what Appellant's invention is... Thus, while Charles may broadly disclose a system for displaying images, it does so in a way which is quite different from the way that Appellant displays data. It can not realistically be said that Charles and Appellant's invention are in the same field of endeavor... Pugliese is non-analogous art and one of ordinary skill in the art would not combine it with Charles.

The Examiner respectfully disagrees with the Applicant.

In response to applicant's argument that Charles and Pugliese are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

The Examiner maintains that Charles and Pugliese are analogous art because they present images to a viewer over the Internet. Charles is especially pertinent because Charles disclosed using a borescope to capture the images and use a computer device in order to distribute/render the images over the Internet. Charles disclosed the structure and elements required to enable the capture and transmission of images. Pugliese disclosed the structure and elements required for the images to be viewed on the receiving end of the transmission. Pugliese disclosed a website for viewing images.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *'displaying images, it does so in a way which is quite different from the way that Appellant displays data'*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

The Examiner notes that the claims do not contain any limitations regarding the presentation/rendering of the images and that there is no novelty described in the Applicant Specifications regarding the process of displaying/rendering the images.

The Applicant presents the following argument(s) [in italics]:

Charles has no portal and no server and has no interest in a live interchange between a user and a salesperson.

The Examiner respectfully disagrees with the Applicant.

Charles Column 7 Lines 15-30 disclosed several applications including surveillance and inspection as one of the many applications for the captured images. Charles Column 15 Lines 45-50 disclosed wherein the images are used in multiple portal virtual reality projection embodiments and Charles Column 16 Lines 5-15 disclosed wherein the system includes interactive input devices.

Given the disclosure by Charles the Examiner maintains that Charles disclosed multiple viewers and interaction between the viewers and image capture device.

The Examiner notes that Charles and Pugliese have overlapping disclosures regarding portals and servers.

The Examiner notes that Charles explicitly disclosed using the Internet as a distribution network. The Examiner maintains that Charles would have been required to

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use a server in order to implement said distribution over the Internet. Thus Charles disclosed a server communicating with the portal.

Furthermore also disclosed using intranets as a distribution network, said intranets being equivalent to a local area network.

Pugliese also disclosed a server communicating with said portal and a means for enabling two-way communications between said portal and said server. (Pugliese – Paragraph 255)

The Applicant presents the following argument(s) [in italics]:

...With regard to the limitation, the portal having at least one software tool for analyzing, organizing, and sorting at least one form of data for access by at least one community of users, Appellant submits that there is no reason to provide Charles's system with such a portal.

The Examiner respectfully disagrees with the Applicant.

Charles Column 7 Lines 15-30 disclosed several applications including surveillance and inspection as one of the many applications for the captured images. Charles Column 15 Lines 45-50 disclosed wherein the images are used in multiple portal virtual reality projection embodiments and Charles Column 16 Lines 5-15 disclosed wherein the system includes interactive input devices.

Given the diverse possible applications, multiple viewing portals and inputs disclosed by Charles the Examiner maintains that Charles would have been motivated to incorporate a software program to analyze, organize and sort the data.

The Applicant presents the following argument(s) [in italics]:

With regard to combining Thompson with Charles, Appellant submits that there is no reason to do so. Charles is not inspecting an engine or providing information to users about an engine.

The Examiner respectfully disagrees with the Applicant.

Charles Column 7 Lines 15-30 disclosed several applications including surveillance and inspection as one of the many applications for the captured images, such that said images are distributed/viewed over the Internet. Thus Charles and Thompson are similarly concerned with inspection mechanisms.

Furthermore both Charles and Thompson are concerned with capturing images with an image-producing scope, such as borescopes and endoscopes, that are desirable for inspecting locations that are not easily accessible to humans.

Charles, Pugliese and Thompson are analogous art because they present concepts and practices regarding electronic distribution, processing, and viewing of visual data via a remote visual device. At the time of the invention it would have been obvious to combine the teachings of Thompson into the method and apparatus of

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Charles-Pugliese. The motivation for said combination would have been to have the appropriate maintenance files readily available at the inspection site along with the visual device. (Thompson -Column 4 Lines 20-30)

The Applicant presents the following argument(s) [in italics]:

While Charles discloses the use of a borescope in connection with certain embodiments of his invention, there is no disclosure of the borescope forming the visual data being in communication with the at least one mobile device.

The Examiner respectfully disagrees with the Applicant.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

The Examiner notes that both Charles and Thompson are concerned with capturing images with an image-producing scope, such as borescopes and endoscopes, that are desirable for inspecting locations that are not easily accessible to humans.

Thompson disclosed (re. Claim 1) wherein the visual data device is in communication with a PC tablet. (Thompson -Figure 2, Column 5 Lines 30-45, 'maintenance apparatus')

Charles-Pugliese-Thompson disclosed Claim 6 a borescope (Thompson-Column 13 Lines 10-30) and said borescope being in communication with a mobile device. (Thompson -Figure 2, Column 5 Lines 30-45, '*maintenance apparatus*')

The Applicant presents the following argument(s) [in italics]:

... There is also no mention of a data feed wire.

Charles-Pugliese-Thompson disclosed Claim 7 wherein said borescope communicates with said mobile device (Thompson -Figure 2, Column 5 Lines 30-45, '*maintenance apparatus*') via a data feed wire. (Thompson-Column 7 Lines 20-25, '*hardwire connection*')

The Applicant presents the following argument(s) [in italics]:

None of the cited Figures has a mobile device with a USB port for receiving the data feed wire connected to the borescope.

The Examiner respectfully disagrees with the Applicant.

Charles-Pugliese-Thompson disclosed Claim 8 wherein said mobile device comprises at least one USB port for receiving said data feed wire. (Charles – Figure 178)

The Examiner notes that Charles Figure 178 disclosed a borescope connected by a data feed wire to a portable computer. Thompson also disclose a borescope connected by a wire to the tablet device.

While the prior art does not explicitly disclose a USB port the Examiner notes that at the time of the invention that USB ports and protocols was well-known in the networking art for connecting peripheral devices to computer devices. (See Chang US Patent 6791601 Column 3 Lines 30-45, Column 4 Lines 55-60, '*USB port interface on the Digital Capture System DCS for receiving video images from endoscope*'). It would have been obvious for Charles-Pugliese-Thompson to use a standard USB port for connecting the borescope to the portable computer device in order to enable plug and play capability and thus eliminate peripheral device configuration steps.

The Applicant presents the following argument(s) [in italics]:

Charles has no server and there is no need for one in Charles, there is no reason to provide a server having a unique IP address and hosting at least one web page.

The Examiner respectfully disagrees with the Applicant.

Charles-Pugliese-Thompson disclosed Claim 12 wherein said server is addressable by a unique IP address and wherein said server hosts at least one web page. (Pugliese – Paragraph 255)

While Pugliese does not explicitly disclose wherein said server is addressable by a unique IP address Pugliese would have been required to implement said server that is addressable by a unique IP address in order to enable data to be sent and received by said server.

Regarding Claim 13, the Applicant presents the following argument(s) [in italics]:

It is not clear how Charles system would be improved by incorporating a server on a movable platform comprising a boat, an airplane, a spacecraft, an automobile or a truck and how incorporating the server on such a movable platform would enable an operator to control the video feed from the visual device. One has nothing to do with the other. An operator can control the video feed from the visual device without it being on a movable platform.

The Examiner respectfully disagrees with the Applicant.

Charles, Pugliese, Thompson and Boykin are analogous art because they present concepts and practices regarding electronic distribution, processing, and viewing of visual data via a remote visual device. At the time of the invention it would have been obvious to combine the teachings of Boykin into the method and apparatus of Charles-Pugliese-Thompson. The motivation for said combination would have been to enable an operator to control the video feed from the visual device. (Boykin1-Column 5 Lines 45-65)

The Examiner notes that Charles Figure 179 Column 16 Lines 5-15 strongly suggests wherein the images are distributed/viewed over diverse locations so that the

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viewers are located remotely from the borescope itself. Pugliese disclosed the means to render the images via a website. Thompson builds on this concept by indicating that the borescope be further untethered by way of a handheld computing device in order to inspect an aircraft. Furthermore Thompson indicated that multiple views may also be generated to view an area from different locations and/or to view the interaction of multiple components. The Examiner notes that such handheld devices are usually of limited processing and storage capability and would not be suitable for the distribution requirements indicated by Charles, Pugliese and Thompson. Thus it would be obvious to a person of ordinary skill in the networking art that a server located within the vicinity of the borescope, as disclosed by Boykin, would be desirable in order for operator of the borescope to manipulate the server operation to generate multiple views using a website as required by the distribution requirements by Charles, Pugliese and Thompson.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/G. B./

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Examiner, Art Unit 2444

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444

Conferees:

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2451